

# House File 98 - Introduced

HOUSE FILE 98

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## A BILL FOR

1 An Act relating to notice requirements for child abuse  
2 investigations by the department of human services.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.71B, Code 2015, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 2A. *Notice of rights.*

4 a. (1) Upon commencing an assessment, the department, at  
5 the time of an initial face-to-face contact with the person  
6 responsible for the care of the child, shall provide that  
7 person with written notice of all of the following:

8 (a) The person responsible for the care of the child is  
9 not required to permit the child protection worker to enter  
10 the residence of the person responsible for the care of the  
11 child. However, if permission is refused, the juvenile court  
12 or district court may authorize the child protection worker to  
13 enter the home to interview or observe the child upon a showing  
14 of probable cause.

15 (b) The person responsible for the care of the child is not  
16 required to speak with the child protection worker.

17 (c) The person responsible for the care of the child is  
18 entitled to seek the representation of an attorney and to have  
19 an attorney present when the person responsible for the care of  
20 the child is questioned by the child protection worker.

21 (d) Any statement made by the person responsible for  
22 the care of the child or other family member may be used  
23 against the person responsible for the care of the child in an  
24 administrative or court proceeding.

25 (e) The child protection worker is not an attorney and  
26 cannot provide legal advice to the person responsible for the  
27 care of the child.

28 (f) The person responsible for the care of the child is not  
29 required to sign any document presented by the child protection  
30 worker including but not limited to a release of claims or a  
31 service agreement, and is entitled to have an attorney review  
32 such document before agreeing to sign the document.

33 (g) A failure of the person responsible for the care of the  
34 child to communicate with the child protection worker may have  
35 serious consequences, which may include the department's filing

1 of a petition for the removal of the child from the home of the  
2 person responsible for the care of the child, and it is in the  
3 best interest of the person responsible for the care of the  
4 child to speak with the child protection worker or immediately  
5 seek the advice of a qualified attorney.

6 (2) The child protection worker shall request the person  
7 responsible for the care of the child to sign and date the  
8 notice described in subparagraph (1) as evidence of having  
9 received the notice. If the person responsible for the  
10 care of the child refuses to sign and date the notice upon  
11 such request, the child protection worker shall specifically  
12 indicate on the notice that the person responsible for the care  
13 of the child was requested to sign and date the notice and  
14 refused to do so and the child protection worker shall sign the  
15 notice as witness to the refusal by the person responsible for  
16 the care of the child to sign the notice. The department shall  
17 provide the person responsible for the care of the child with  
18 a copy of the signed notice at the time of the department's  
19 initial face-to-face contact with the person responsible for  
20 the care of the child.

21 b. Notwithstanding paragraph "a", if an initial contact  
22 with the person responsible for the care of the child occurs  
23 telephonically, the department shall orally provide that person  
24 with notice of that person's rights as described in paragraph  
25 "a", subparagraph (1), subparagraph divisions (a) through (g).  
26 If the department has provided oral notice pursuant to this  
27 paragraph, the department shall also provide written notice  
28 as described in paragraph "a" upon the department's initial  
29 face-to-face contact with the person responsible for the care  
30 of the child.

31 c. The department shall make reasonable efforts to ensure  
32 that the notice provided to a person responsible for the care  
33 of the child pursuant to this section is provided in a manner  
34 that will be understood by the person responsible for the care  
35 of the child. For purposes of this paragraph, "reasonable

1 *efforts*" includes but is not limited to ensuring that the notice  
2 is provided in language understood by the person responsible  
3 for the care of the child.

4 *d.* Any statement made by the person responsible for  
5 the care of the child, or by a child who is a member of the  
6 person's family or household to the child protection worker  
7 prior to the provision of notice as described in paragraph  
8 "a", or any statement made by the person responsible for  
9 the care of the child prior to the provision of notice as  
10 described in paragraph "b", shall be deemed inadmissible in any  
11 administrative or court proceeding.

12 *e.* For purposes of this subsection only, "*person responsible*  
13 *for the care of the child*" means a person responsible for the  
14 care of the child as described in section 232.68, subsection 8,  
15 paragraphs "a" and "b".

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with  
18 the explanation's substance by the members of the general assembly.

19 This bill adds a notice of rights requirement to department  
20 of human services (DHS) child abuse investigations. The bill  
21 requires a DHS child protection worker to provide written  
22 notice to a person responsible for the care of the child when  
23 DHS conducts an initial face-to-face contact with that person.  
24 "Person responsible for the care of the child" is defined as  
25 a parent, guardian, foster parent, or relative or any other  
26 person with whom the child resides and who assumes care or  
27 supervision of the child.

28 The bill also requires DHS to provide oral notice to a person  
29 responsible for the care of the child when DHS conducts an  
30 initial contact telephonically. If a DHS child protection  
31 worker has face-to-face contact with the person responsible for  
32 the care of the child after an initial telephone contact, the  
33 DHS worker must provide written notice at the first initial  
34 face-to-face contact as well.

35 The notice must provide that the person responsible for

1 the care of the child is not required to allow the DHS child  
2 protection worker into the residence, is not required to  
3 speak to the DHS child protection worker, is entitled to seek  
4 representation of an attorney, and is not required to sign any  
5 document presented by the DHS child protection worker. The  
6 notice must also provide that any statement made by the person  
7 responsible for the care of the child or other family member  
8 may be used against the person, that the DHS child protection  
9 worker is not an attorney and cannot provide legal advice,  
10 and that the person's failure to communicate with the child  
11 protection worker may have serious consequences.

12 The bill requires DHS to make reasonable efforts to provide  
13 the notice in a manner which the person responsible for the  
14 care of the child can understand. The written notice for  
15 face-to-face contacts must be signed and dated.

16 The bill provides that any statement made by the person  
17 responsible for the care of the child, or by a child who  
18 is a family member of that person, is inadmissible in any  
19 administrative or court proceeding prior to the provision  
20 of the written notice. Additionally, any statement made  
21 by the person responsible for the care of the child is  
22 inadmissible in any administrative or court proceeding prior to  
23 provision of oral notice when an initial contact was conducted  
24 telephonically.